

Subpart F—Disclosure of Records**§ 317.60 Conditions of disclosure.**

(a) *Disclosures to third persons.* (1) Under the Privacy Act, there are two terms describing how information from a record is provided:

(i) “Access” occurs when information from a record is provided or shown to the individual who is the subject of record or, if that individual is a minor or incompetent, to the parent or legal guardian.

(ii) “Disclosure” occurs when information from a record is provided or shown to anyone other than the subject of record, or the parent or legal guardian of a minor or incompetent.

(b) *When disclosures may be made.* Disclosures may be made only when:

(1) The subject of record gives written consent for the disclosure; or

(2) One of the twelve conditions specified in § 317.61.

(c) *Validation before disclosure.* Except for disclosures made under the FOIA or DCAA Regulation 5410.10 (32 CFR part 290), make reasonable efforts to ensure the record is accurate, relevant, timely, and complete for agency purposes before disclosing any record from a system of records to any recipient other than a Federal agency. Records discovered to have been improperly filed in the system of records should be removed before disclosure.

(1) If validation cannot be obtained from the record itself, the agency may contact the subject of record (if reasonably available) to verify the accuracy, timeliness, completeness, and relevancy of the information.

(2) If validation cannot be obtained from the record and the subject of record is not reasonably available, the recipient should be advised that the information is believed to be valid as of a specific date and reveal any factors bearing on the validity of the information.

§ 317.61 Non-consensual disclosures.

The Privacy Act provides twelve instances when a record in a system of records may be disclosed without the written consent of the subject of the record:

(a) *Disclosures within the Department of Defense for official purposes.* For purposes of disclosing records among DoD components, the Department of Defense is considered a single agency; hence, a record may be disclosed to any officer or employee in the Department of Defense who needs it in the performance of official duties. Rank or position alone does not authorize the disclosure; there must be a demonstrated official need.

(b) *Disclosures required by the Freedom of Information Act (FOIA).* (1) A record must be disclosed if required by the FOIA, which is implemented by DCAA Regulation 5410.10 (32 CFR part 290).

(2) The FOIA requires that records be made available to any person requesting them in writing, unless the record is exempt from disclosure under one of the nine FOIA exemptions. Therefore, if a record is not exempt from disclosure, it must be provided to the requester.

(3) Certain records, such as personnel, medical, and similar files, are exempt from disclosure under FOIA Exemption number 6. Under that exemption, disclosure of information pertaining to an individual can be denied only when the disclosure would be “a clearly unwarranted invasion of personal privacy.”

(4) Records or information from investigatory records, including personnel security investigatory records, are exempt from disclosure under the broader standard of “an unwarranted invasion of personal privacy” found in FOIA Exemption number 7. This broader standard applies only to investigatory records.

(5) A disclosure under the FOIA about civilian employees must be in accordance with DCAA Regulation 5410.8¹⁰, but the following information normally may be disclosed from civilian employee records:

(i) Full name.

(ii) Present and past position titles and occupational series.

(iii) Present and past grades.

(iv) Present and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious and Distinguished

¹⁰ See footnote 1 to § 317.1(a).